

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT SIMMONS, JR.,	)	
	)	Civil Action
Petitioner	)	No. 04-04168
	)	
vs.	)	
	)	
THE DISTRICT ATTORNEY OF THE	)	
COUNTY OF LANCASTER,	)	
THE ATTORNEY GENERAL OF THE	)	
STATE OF PENNSYLVANIA, and	)	
HARRY WILSON,	)	
	)	
Respondents	)	

O R D E R

NOW, this 23<sup>rd</sup> day of February, 2007, upon consideration of the Form for Use in Applications for Habeas Corpus Under 28 U.S.C. § 2254 (docket entry number 3), which form was filed on December 8, 2004; upon consideration of Respondent District Attorney of Lancaster County's Answer to Petition for Writ of Habeas Corpus, which answer was filed on April 11, 2005 (docket entry number 9); upon consideration of the Order and the Memorandum of United States Magistrate Judge M. Faith Angell, which Order and Memorandum were filed on June 17, 2005 (docket entry number 15); upon consideration of Respondent District Attorney of Lancaster County's Amended Answer to Petition for Writ of Habeas Corpus, which answer was filed on August 3, 2005 (docket entry number 17); upon consideration of the Report and Recommendation of United States Magistrate Judge M. Faith Angell, which Report and Recommendation was filed on November 2, 2006 (docket entry number 20); upon consideration

of Petitioner's Objections to the United States Magistrate Judge's Report and Recommendation, which objections were filed on November 20, 2006 (docket entry number 21); upon consideration of the attached letter from Assistant District Attorney Alina L. Andreoli dated November 21, 2006, which letter was received on November 29, 2006 and which letter states that respondents do not intend to submit a response to petitioner's objections, and Recommendation; it appearing that petitioner's objections to Magistrate Judge Angell's Report and Recommendation, which are articulated in Petitioner's Objections to the United States Magistrate Judge's Report and Recommendation, are a restatement of issues disposed of by Magistrate Judge Angell's Report and Recommendation; it further appearing after de novo review of this matter that Magistrate Judge Angell's Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Angell's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that petitioner's objections to Magistrate Judge Angell's Report and Recommendation are overruled.<sup>1</sup>

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1. When objections are filed to a magistrate judge's report and recommendation, we are required to make a de novo determination of those portions of the report, findings or recommendations made by the magistrate judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b)

(Footnote 1 continued):

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is denied and dismissed without a hearing.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner  
James Knoll Gardner  
United States District Judge

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(Continuation of footnote 1):

of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania. Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge. See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. We may accept, reject or modify, in whole or in part any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

As noted above, we conclude that petitioner's objections to Magistrate Judge Angell's Report and Recommendation are nothing more than a restatement of some of the underlying claims contained in his petition for habeas corpus. Moreover, upon review of the Report and Recommendation, together with de novo review of this matter, we conclude that the Report and Recommendation correctly determined the legal issues raised by petitioner.

Accordingly, we approve and adopt Magistrate Judge Angell's Report and Recommendation and overrule petitioner's objections to the Report and Recommendation.